

1                                    AMENDMENT TO HOUSE BILL 560

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 560 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 12-4 and adding Section 21-9 as follows:

6            (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)  
7            Sec. 12-4. Aggravated Battery.

8            (a) A person who, in committing a battery, intentionally  
9 or knowingly causes great bodily harm, or permanent  
10 disability or disfigurement commits aggravated battery.

11            (b) In committing a battery, a person commits aggravated  
12 battery if he or she:

13                    (1) Uses a deadly weapon other than by the  
14 discharge of a firearm;

15                    (2) Is hooded, robed or masked, in such manner as  
16 to conceal his identity;

17                    (3) Knows the individual harmed to be a teacher or  
18 other person employed in any school and such teacher or  
19 other employee is upon the grounds of a school or grounds  
20 adjacent thereto, or is in any part of a building used  
21 for school purposes;

22                    (4) Knows the individual harmed to be a supervisor,

1 director, instructor or other person employed in any park  
2 district and such supervisor, director, instructor or  
3 other employee is upon the grounds of the park or grounds  
4 adjacent thereto, or is in any part of a building used  
5 for park purposes;

6 (5) Knows the individual harmed to be a caseworker,  
7 investigator, or other person employed by the State  
8 Department of Public Aid, a County Department of Public  
9 Aid, or the Department of Human Services (acting as  
10 successor to the Illinois Department of Public Aid under  
11 the Department of Human Services Act) and such  
12 caseworker, investigator, or other person is upon the  
13 grounds of a public aid office or grounds adjacent  
14 thereto, or is in any part of a building used for public  
15 aid purposes, or upon the grounds of a home of a public  
16 aid applicant, recipient, or any other person being  
17 interviewed or investigated in the employee's discharge  
18 of his duties, or on grounds adjacent thereto, or is in  
19 any part of a building in which the applicant, recipient,  
20 or other such person resides or is located;

21 (6) Knows the individual harmed to be a peace  
22 officer, a community policing volunteer, a correctional  
23 institution employee, an employee of the Department of  
24 Human Services supervising or controlling sexually  
25 dangerous persons or sexually violent persons, or a  
26 fireman while such officer, volunteer, employee or  
27 fireman is engaged in the execution of any official  
28 duties including arrest or attempted arrest, or to  
29 prevent the officer, volunteer, employee or fireman from  
30 performing official duties, or in retaliation for the  
31 officer, volunteer, employee or fireman performing  
32 official duties, and the battery is committed other than  
33 by the discharge of a firearm;

34 (7) Knows the individual harmed to be an emergency

1 medical technician - ambulance, emergency medical  
2 technician - intermediate, emergency medical technician -  
3 paramedic, ambulance driver, other medical assistance,  
4 first aid personnel, or hospital emergency room personnel  
5 engaged in the performance of any of his or her official  
6 duties, or to prevent the emergency medical technician -  
7 ambulance, emergency medical technician - intermediate,  
8 emergency medical technician - paramedic, ambulance  
9 driver, other medical assistance, first aid personnel, or  
10 hospital emergency room personnel from performing  
11 official duties, or in retaliation for performing  
12 official duties;

13 (8) Is, or the person battered is, on or about a  
14 public way, public property or public place of  
15 accommodation or amusement;

16 (9) Knows the individual harmed to be the driver,  
17 operator, employee or passenger of any transportation  
18 facility or system engaged in the business of  
19 transportation of the public for hire and the individual  
20 assaulted is then performing in such capacity or then  
21 using such public transportation as a passenger or using  
22 any area of any description designated by the  
23 transportation facility or system as a vehicle boarding,  
24 departure, or transfer location;

25 (10) Knowingly and without legal justification and  
26 by any means causes bodily harm to an individual of 60  
27 years of age or older;

28 (11) Knows the individual harmed is pregnant;

29 (12) Knows the individual harmed to be a judge whom  
30 the person intended to harm as a result of the judge's  
31 performance of his or her official duties as a judge;

32 (13) Knows the individual harmed to be an employee  
33 of the Illinois Department of Children and Family  
34 Services engaged in the performance of his authorized

1 duties as such employee;

2 (14) Knows the individual harmed to be a person who  
3 is physically handicapped;

4 (15) Knowingly and without legal justification and  
5 by any means causes bodily harm to a merchant who detains  
6 the person for an alleged commission of retail theft  
7 under Section 16A-5 of this Code. In this item (15),  
8 "merchant" has the meaning ascribed to it in Section  
9 16A-2.4 of this Code;

10 (16) Is, or the person battered is, in any building  
11 or other structure used to provide shelter or other  
12 services to victims or to the dependent children of  
13 victims of domestic violence pursuant to the Illinois  
14 Domestic Violence Act of 1986 or the Domestic Violence  
15 Shelters Act, or the person battered is within 500 feet  
16 of such a building or other structure while going to or  
17 from such a building or other structure. "Domestic  
18 violence" has the meaning ascribed to it in Section 103  
19 of the Illinois Domestic Violence Act of 1986. "Building  
20 or other structure used to provide shelter" has the  
21 meaning ascribed to "shelter" in Section 1 of the  
22 Domestic Violence Shelters Act; or

23 (17) Knows the individual harmed to be an employee  
24 of a police or sheriff's department engaged in the  
25 performance of his or her official duties as such  
26 employee; or -

27 (18) Knows the individual harmed to be a sports  
28 official or coach at any level of competition and the act  
29 causing harm to the sports official or coach occurred  
30 within an athletic facility or within the immediate  
31 vicinity of the athletic facility at which the sports  
32 official or coach was an active participant in the  
33 athletic contest held at the athletic facility. For the  
34 purposes of this paragraph (18), "sports official" means

1 a person at an athletic contest who enforces the rules of  
2 the contest, such as an umpire or referee, and "coach"  
3 means a person recognized as a coach by the sanctioning  
4 authority that conducted the athletic contest.

5 For the purpose of paragraph (14) of subsection (b) of  
6 this Section, a physically handicapped person is a person who  
7 suffers from a permanent and disabling physical  
8 characteristic, resulting from disease, injury, functional  
9 disorder or congenital condition.

10 (c) A person who administers to an individual or causes  
11 him to take, without his consent or by threat or deception,  
12 and for other than medical purposes, any intoxicating,  
13 poisonous, stupefying, narcotic, anesthetic, or controlled  
14 substance commits aggravated battery.

15 (d) A person who knowingly gives to another person any  
16 food that contains any substance or object that is intended  
17 to cause physical injury if eaten, commits aggravated  
18 battery.

19 (d-3) A person commits aggravated battery when he or she  
20 knowingly and without lawful justification shines or flashes  
21 a laser gunsight or other laser device that is attached or  
22 affixed to a firearm, or used in concert with a firearm, so  
23 that the laser beam strikes upon or against the person of  
24 another.

25 (d-5) An inmate of a penal institution or a sexually  
26 dangerous person or a sexually violent person in the custody  
27 of the Department of Human Services who causes or attempts to  
28 cause a correctional employee of the penal institution or an  
29 employee of the Department of Human Services to come into  
30 contact with blood, seminal fluid, urine, or feces, by  
31 throwing, tossing, or expelling that fluid or material  
32 commits aggravated battery. For purposes of this subsection  
33 (d-5), "correctional employee" means a person who is employed  
34 by a penal institution.

1 (e) Sentence.

2 Aggravated battery is a Class 3 felony, except a  
3 violation of subsection (a) is a Class 2 felony when the  
4 person knows the individual harmed to be a peace officer  
5 engaged in the execution of any of his or her official  
6 duties, or the battery is to prevent the officer from  
7 performing his or her official duties, or in retaliation for  
8 the officer performing his or her official duties.

9 (Source: P.A. 91-357, eff. 7-29-99; 91-488, eff. 1-1-00;  
10 91-619, eff. 1-1-00; 91-672, eff. 1-1-00; 92-16, eff.  
11 6-28-01; 92-516, eff. 1-1-02; 92-841, eff. 8-22-02; 92-865,  
12 eff. 1-3-03; revised 1-9-03.)

13 (720 ILCS 5/21-9 new)

14 Sec. 21-9. Criminal trespass to the playing field of a  
15 professional sports team.

16 (a) A person commits the offense of criminal trespass to  
17 the playing field of a professional sports team when he or  
18 she knowingly and without lawful authority enters or remains  
19 on the playing field of a professional sports team after  
20 having received notice that entry to the playing field is  
21 forbidden.

22 (b) A person has received notice within the meaning of  
23 subsection (a) if he or she has been notified personally,  
24 either orally or in writing, or if a printed or written  
25 notice forbidding such entry has been conspicuously posted or  
26 exhibited at the entrance to the playing field.

27 (c) Criminal trespass to the playing field of a  
28 professional sports team is a Class A misdemeanor.

29 Section 10. The Unified Code of Corrections is amended  
30 by changing Section 5-5-3 as follows:

31 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

1           Sec. 5-5-3. Disposition.

2           (a) Every person convicted of an offense shall be  
3 sentenced as provided in this Section.

4           (b) The following options shall be appropriate  
5 dispositions, alone or in combination, for all felonies and  
6 misdemeanors other than those identified in subsection (c) of  
7 this Section:

8                   (1) A period of probation.

9                   (2) A term of periodic imprisonment.

10                   (3) A term of conditional discharge.

11                   (4) A term of imprisonment.

12                   (5) An order directing the offender to clean up and  
13 repair the damage, if the offender was convicted under  
14 paragraph (h) of Section 21-1 of the Criminal Code of  
15 1961.

16                   (6) A fine.

17                   (7) An order directing the offender to make  
18 restitution to the victim under Section 5-5-6 of this  
19 Code.

20                   (8) A sentence of participation in a county impact  
21 incarceration program under Section 5-8-1.2 of this Code.

22           Whenever an individual is sentenced for an offense based  
23 upon an arrest for a violation of Section 11-501 of the  
24 Illinois Vehicle Code, or a similar provision of a local  
25 ordinance, and the professional evaluation recommends  
26 remedial or rehabilitative treatment or education, neither  
27 the treatment nor the education shall be the sole disposition  
28 and either or both may be imposed only in conjunction with  
29 another disposition. The court shall monitor compliance with  
30 any remedial education or treatment recommendations contained  
31 in the professional evaluation. Programs conducting alcohol  
32 or other drug evaluation or remedial education must be  
33 licensed by the Department of Human Services. However, if  
34 the individual is not a resident of Illinois, the court may

1 accept an alcohol or other drug evaluation or remedial  
2 education program in the state of such individual's  
3 residence. Programs providing treatment must be licensed  
4 under existing applicable alcoholism and drug treatment  
5 licensure standards.

6 In addition to any other fine or penalty required by law,  
7 any individual convicted of a violation of Section 11-501 of  
8 the Illinois Vehicle Code or a similar provision of local  
9 ordinance, whose operation of a motor vehicle while in  
10 violation of Section 11-501 or such ordinance proximately  
11 caused an incident resulting in an appropriate emergency  
12 response, shall be required to make restitution to a public  
13 agency for the costs of that emergency response. Such  
14 restitution shall not exceed \$500 per public agency for each  
15 such emergency response. For the purpose of this paragraph,  
16 emergency response shall mean any incident requiring a  
17 response by: a police officer as defined under Section 1-162  
18 of the Illinois Vehicle Code; a fireman carried on the rolls  
19 of a regularly constituted fire department; and an ambulance  
20 as defined under Section 3.85 4-05 of the Emergency Medical  
21 Services (EMS) Systems Act.

22 Neither a fine nor restitution shall be the sole  
23 disposition for a felony and either or both may be imposed  
24 only in conjunction with another disposition.

25 (c) (1) When a defendant is found guilty of first degree  
26 murder the State may either seek a sentence of  
27 imprisonment under Section 5-8-1 of this Code, or where  
28 appropriate seek a sentence of death under Section 9-1 of  
29 the Criminal Code of 1961.

30 (2) A period of probation, a term of periodic  
31 imprisonment or conditional discharge shall not be  
32 imposed for the following offenses. The court shall  
33 sentence the offender to not less than the minimum term  
34 of imprisonment set forth in this Code for the following



1 offenses, and may order a fine or restitution or both in  
2 conjunction with such term of imprisonment:

3 (A) First degree murder where the death  
4 penalty is not imposed.

5 (B) Attempted first degree murder.

6 (C) A Class X felony.

7 (D) A violation of Section 401.1 or 407 of the  
8 Illinois Controlled Substances Act, or a violation  
9 of subdivision (c)(1) or (c)(2) of Section 401 of  
10 that Act which relates to more than 5 grams of a  
11 substance containing heroin or cocaine or an analog  
12 thereof.

13 (E) A violation of Section 5.1 or 9 of the  
14 Cannabis Control Act.

15 (F) A Class 2 or greater felony if the  
16 offender had been convicted of a Class 2 or greater  
17 felony within 10 years of the date on which the  
18 offender committed the offense for which he or she  
19 is being sentenced, except as otherwise provided in  
20 Section 40-10 of the Alcoholism and Other Drug Abuse  
21 and Dependency Act.

22 (G) Residential burglary, except as otherwise  
23 provided in Section 40-10 of the Alcoholism and  
24 Other Drug Abuse and Dependency Act.

25 (H) Criminal sexual assault, except as  
26 otherwise provided in subsection (e) of this  
27 Section.

28 (I) Aggravated battery of a senior citizen.

29 (J) A forcible felony if the offense was  
30 related to the activities of an organized gang.

31 Before July 1, 1994, for the purposes of this  
32 paragraph, "organized gang" means an association of  
33 5 or more persons, with an established hierarchy,  
34 that encourages members of the association to

1           perpetrate crimes or provides support to the members  
2           of the association who do commit crimes.

3           Beginning July 1, 1994, for the purposes of  
4           this paragraph, "organized gang" has the meaning  
5           ascribed to it in Section 10 of the Illinois  
6           Streetgang Terrorism Omnibus Prevention Act.

7           (K) Vehicular hijacking.

8           (L) A second or subsequent conviction for the  
9           offense of hate crime when the underlying offense  
10          upon which the hate crime is based is felony  
11          aggravated assault or felony mob action.

12          (M) A second or subsequent conviction for the  
13          offense of institutional vandalism if the damage to  
14          the property exceeds \$300.

15          (N) A Class 3 felony violation of paragraph  
16          (1) of subsection (a) of Section 2 of the Firearm  
17          Owners Identification Card Act.

18          (O) A violation of Section 12-6.1 of the  
19          Criminal Code of 1961.

20          (P) A violation of paragraph (1), (2), (3),  
21          (4), (5), or (7) of subsection (a) of Section  
22          11-20.1 of the Criminal Code of 1961.

23          (Q) A violation of Section 20-1.2 of the  
24          Criminal Code of 1961.

25          (R) A violation of Section 24-3A of the  
26          Criminal Code of 1961.

27          (S) A violation of Section 11-501(c-1)(3) of  
28          the Illinois Vehicle Code.

29          (3) A minimum term of imprisonment of not less than  
30          5 days or 30 days of community service as may be  
31          determined by the court shall be imposed for a second  
32          violation committed within 5 years of a previous  
33          violation of Section 11-501 of the Illinois Vehicle Code  
34          or a similar provision of a local ordinance. In the case

1 of a third or subsequent violation committed within 5  
2 years of a previous violation of Section 11-501 of the  
3 Illinois Vehicle Code or a similar provision of a local  
4 ordinance, a minimum term of either 10 days of  
5 imprisonment or 60 days of community service shall be  
6 imposed.

7 (4) A minimum term of imprisonment of not less than  
8 10 consecutive days or 30 days of community service shall  
9 be imposed for a violation of paragraph (c) of Section  
10 6-303 of the Illinois Vehicle Code.

11 (4.1) A minimum term of 30 consecutive days of  
12 imprisonment, 40 days of 24 hour periodic imprisonment or  
13 720 hours of community service, as may be determined by  
14 the court, shall be imposed for a violation of Section  
15 11-501 of the Illinois Vehicle Code during a period in  
16 which the defendant's driving privileges are revoked or  
17 suspended, where the revocation or suspension was for a  
18 violation of Section 11-501 or Section 11-501.1 of that  
19 Code.

20 (4.2) Except as provided in paragraph (4.3) of this  
21 subsection (c), a minimum of 100 hours of community  
22 service shall be imposed for a second violation of  
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.3) A minimum term of imprisonment of 30 days or  
25 300 hours of community service, as determined by the  
26 court, shall be imposed for a second violation of  
27 subsection (c) of Section 6-303 of the Illinois Vehicle  
28 Code.

29 (4.4) Except as provided in paragraph (4.5) and  
30 paragraph (4.6) of this subsection (c), a minimum term of  
31 imprisonment of 30 days or 300 hours of community  
32 service, as determined by the court, shall be imposed for  
33 a third or subsequent violation of Section 6-303 of the  
34 Illinois Vehicle Code.

1           (4.5) A minimum term of imprisonment of 30 days  
2 shall be imposed for a third violation of subsection (c)  
3 of Section 6-303 of the Illinois Vehicle Code.

4           (4.6) A minimum term of imprisonment of 180 days  
5 shall be imposed for a fourth or subsequent violation of  
6 subsection (c) of Section 6-303 of the Illinois Vehicle  
7 Code.

8           (5) The court may sentence an offender convicted of  
9 a business offense or a petty offense or a corporation or  
10 unincorporated association convicted of any offense to:

- 11                   (A) a period of conditional discharge;
- 12                   (B) a fine;
- 13                   (C) make restitution to the victim under  
14 Section 5-5-6 of this Code.

15           (5.1) In addition to any penalties imposed under  
16 paragraph (5) of this subsection (c), and except as  
17 provided in paragraph (5.2) or (5.3), a person convicted  
18 of violating subsection (c) of Section 11-907 of the  
19 Illinois Vehicle Code shall have his or her driver's  
20 license, permit, or privileges suspended for at least 90  
21 days but not more than one year, if the violation  
22 resulted in damage to the property of another person.

23           (5.2) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), and except as  
25 provided in paragraph (5.3), a person convicted of  
26 violating subsection (c) of Section 11-907 of the  
27 Illinois Vehicle Code shall have his or her driver's  
28 license, permit, or privileges suspended for at least 180  
29 days but not more than 2 years, if the violation resulted  
30 in injury to another person.

31           (5.3) In addition to any penalties imposed under  
32 paragraph (5) of this subsection (c), a person convicted  
33 of violating subsection (c) of Section 11-907 of the  
34 Illinois Vehicle Code shall have his or her driver's

1 license, permit, or privileges suspended for 2 years, if  
2 the violation resulted in the death of another person.

3 (6) In no case shall an offender be eligible for a  
4 disposition of probation or conditional discharge for a  
5 Class 1 felony committed while he was serving a term of  
6 probation or conditional discharge for a felony.

7 (7) When a defendant is adjudged a habitual  
8 criminal under Article 33B of the Criminal Code of 1961,  
9 the court shall sentence the defendant to a term of  
10 natural life imprisonment.

11 (8) When a defendant, over the age of 21 years, is  
12 convicted of a Class 1 or Class 2 felony, after having  
13 twice been convicted in any state or federal court of an  
14 offense that contains the same elements as an offense now  
15 classified in Illinois as a Class 2 or greater Class  
16 felony and such charges are separately brought and tried  
17 and arise out of different series of acts, such defendant  
18 shall be sentenced as a Class X offender. This paragraph  
19 shall not apply unless (1) the first felony was committed  
20 after the effective date of this amendatory Act of 1977;  
21 and (2) the second felony was committed after conviction  
22 on the first; and (3) the third felony was committed  
23 after conviction on the second. A person sentenced as a  
24 Class X offender under this paragraph is not eligible to  
25 apply for treatment as a condition of probation as  
26 provided by Section 40-10 of the Alcoholism and Other  
27 Drug Abuse and Dependency Act.

28 (9) A defendant convicted of a second or subsequent  
29 offense of ritualized abuse of a child may be sentenced  
30 to a term of natural life imprisonment.

31 (10) When a person is convicted of violating  
32 Section 11-501 of the Illinois Vehicle Code or a similar  
33 provision of a local ordinance, the following penalties  
34 apply when his or her blood, breath, or urine was .16 or

1 more based on the definition of blood, breath, or urine  
2 units in Section 11-501.2 or that person is convicted of  
3 violating Section 11-501 of the Illinois Vehicle Code  
4 while transporting a child under the age of 16:

5 (A) For a first violation of subsection (a) of  
6 Section 11-501, in addition to any other penalty  
7 that may be imposed under subsection (c) of Section  
8 11-501: a mandatory minimum of 100 hours of  
9 community service and a minimum fine of \$500.

10 (B) For a second violation of subsection (a)  
11 of Section 11-501, in addition to any other penalty  
12 that may be imposed under subsection (c) of Section  
13 11-501 within 10 years: a mandatory minimum of 2  
14 days of imprisonment and a minimum fine of \$1,250.

15 (C) For a third violation of subsection (a) of  
16 Section 11-501, in addition to any other penalty  
17 that may be imposed under subsection (c) of Section  
18 11-501 within 20 years: a mandatory minimum of 90  
19 days of imprisonment and a minimum fine of \$2,500.

20 (D) For a fourth or subsequent violation of  
21 subsection (a) of Section 11-501: ineligibility for  
22 a sentence of probation or conditional discharge and  
23 a minimum fine of \$2,500.

24 (11) The court shall impose a minimum fine of  
25 \$1,000 for a first offense and \$2,000 for a second or  
26 subsequent offense upon a person convicted of or placed  
27 on supervision for (1) criminal trespass to the playing  
28 field of a professional sports team or for (2) battery  
29 when the individual harmed was a sports official or coach  
30 at any level of competition and the act causing harm to  
31 the sports official occurred within an athletic facility  
32 or within the immediate vicinity of the athletic facility  
33 at which the sports official or coach was an active  
34 participant of the athletic contest held at the athletic

1 facility. The court shall require a person convicted of  
2 or placed on supervision for a violation described in  
3 this paragraph (11) to undergo an alcohol or drug abuse  
4 evaluation. For the purposes of this paragraph (11),  
5 "sports official" means a person at an athletic contest  
6 who enforces the rules of the contest, such as an umpire  
7 or referee and "coach" means a person recognized as a  
8 coach by the sanctioning authority that conducted the  
9 sporting event.

10 (d) In any case in which a sentence originally imposed  
11 is vacated, the case shall be remanded to the trial court.  
12 The trial court shall hold a hearing under Section 5-4-1 of  
13 the Unified Code of Corrections which may include evidence of  
14 the defendant's life, moral character and occupation during  
15 the time since the original sentence was passed. The trial  
16 court shall then impose sentence upon the defendant. The  
17 trial court may impose any sentence which could have been  
18 imposed at the original trial subject to Section 5-5-4 of the  
19 Unified Code of Corrections. If a sentence is vacated on  
20 appeal or on collateral attack due to the failure of the  
21 trier of fact at trial to determine beyond a reasonable doubt  
22 the existence of a fact (other than a prior conviction)  
23 necessary to increase the punishment for the offense beyond  
24 the statutory maximum otherwise applicable, either the  
25 defendant may be re-sentenced to a term within the range  
26 otherwise provided or, if the State files notice of its  
27 intention to again seek the extended sentence, the defendant  
28 shall be afforded a new trial.

29 (e) In cases where prosecution for criminal sexual  
30 assault or aggravated criminal sexual abuse under Section  
31 12-13 or 12-16 of the Criminal Code of 1961 results in  
32 conviction of a defendant who was a family member of the  
33 victim at the time of the commission of the offense, the  
34 court shall consider the safety and welfare of the victim and

1 may impose a sentence of probation only where:

2 (1) the court finds (A) or (B) or both are  
3 appropriate:

4 (A) the defendant is willing to undergo a  
5 court approved counseling program for a minimum  
6 duration of 2 years; or

7 (B) the defendant is willing to participate in  
8 a court approved plan including but not limited to  
9 the defendant's:

10 (i) removal from the household;

11 (ii) restricted contact with the victim;

12 (iii) continued financial support of the  
13 family;

14 (iv) restitution for harm done to the  
15 victim; and

16 (v) compliance with any other measures  
17 that the court may deem appropriate; and

18 (2) the court orders the defendant to pay for the  
19 victim's counseling services, to the extent that the  
20 court finds, after considering the defendant's income and  
21 assets, that the defendant is financially capable of  
22 paying for such services, if the victim was under 18  
23 years of age at the time the offense was committed and  
24 requires counseling as a result of the offense.

25 Probation may be revoked or modified pursuant to Section  
26 5-6-4; except where the court determines at the hearing that  
27 the defendant violated a condition of his or her probation  
28 restricting contact with the victim or other family members  
29 or commits another offense with the victim or other family  
30 members, the court shall revoke the defendant's probation and  
31 impose a term of imprisonment.

32 For the purposes of this Section, "family member" and  
33 "victim" shall have the meanings ascribed to them in Section  
34 12-12 of the Criminal Code of 1961.



1 (f) This Article shall not deprive a court in other  
2 proceedings to order a forfeiture of property, to suspend or  
3 cancel a license, to remove a person from office, or to  
4 impose any other civil penalty.

5 (g) Whenever a defendant is convicted of an offense  
6 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
7 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
8 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
9 shall undergo medical testing to determine whether the  
10 defendant has any sexually transmissible disease, including a  
11 test for infection with human immunodeficiency virus (HIV) or  
12 any other identified causative agent of acquired  
13 immunodeficiency syndrome (AIDS). Any such medical test  
14 shall be performed only by appropriately licensed medical  
15 practitioners and may include an analysis of any bodily  
16 fluids as well as an examination of the defendant's person.  
17 Except as otherwise provided by law, the results of such test  
18 shall be kept strictly confidential by all medical personnel  
19 involved in the testing and must be personally delivered in a  
20 sealed envelope to the judge of the court in which the  
21 conviction was entered for the judge's inspection in camera.  
22 Acting in accordance with the best interests of the victim  
23 and the public, the judge shall have the discretion to  
24 determine to whom, if anyone, the results of the testing may  
25 be revealed. The court shall notify the defendant of the test  
26 results. The court shall also notify the victim if requested  
27 by the victim, and if the victim is under the age of 15 and  
28 if requested by the victim's parents or legal guardian, the  
29 court shall notify the victim's parents or legal guardian of  
30 the test results. The court shall provide information on the  
31 availability of HIV testing and counseling at Department of  
32 Public Health facilities to all parties to whom the results  
33 of the testing are revealed and shall direct the State's  
34 Attorney to provide the information to the victim when

1 possible. A State's Attorney may petition the court to obtain  
2 the results of any HIV test administered under this Section,  
3 and the court shall grant the disclosure if the State's  
4 Attorney shows it is relevant in order to prosecute a charge  
5 of criminal transmission of HIV under Section 12-16.2 of the  
6 Criminal Code of 1961 against the defendant. The court shall  
7 order that the cost of any such test shall be paid by the  
8 county and may be taxed as costs against the convicted  
9 defendant.

10 (g-5) When an inmate is tested for an airborne  
11 communicable disease, as determined by the Illinois  
12 Department of Public Health including but not limited to  
13 tuberculosis, the results of the test shall be personally  
14 delivered by the warden or his or her designee in a sealed  
15 envelope to the judge of the court in which the inmate must  
16 appear for the judge's inspection in camera if requested by  
17 the judge. Acting in accordance with the best interests of  
18 those in the courtroom, the judge shall have the discretion  
19 to determine what if any precautions need to be taken to  
20 prevent transmission of the disease in the courtroom.

21 (h) Whenever a defendant is convicted of an offense  
22 under Section 1 or 2 of the Hypodermic Syringes and Needles  
23 Act, the defendant shall undergo medical testing to determine  
24 whether the defendant has been exposed to human  
25 immunodeficiency virus (HIV) or any other identified  
26 causative agent of acquired immunodeficiency syndrome (AIDS).  
27 Except as otherwise provided by law, the results of such test  
28 shall be kept strictly confidential by all medical personnel  
29 involved in the testing and must be personally delivered in a  
30 sealed envelope to the judge of the court in which the  
31 conviction was entered for the judge's inspection in camera.  
32 Acting in accordance with the best interests of the public,  
33 the judge shall have the discretion to determine to whom, if  
34 anyone, the results of the testing may be revealed. The court

1 shall notify the defendant of a positive test showing an  
2 infection with the human immunodeficiency virus (HIV). The  
3 court shall provide information on the availability of HIV  
4 testing and counseling at Department of Public Health  
5 facilities to all parties to whom the results of the testing  
6 are revealed and shall direct the State's Attorney to provide  
7 the information to the victim when possible. A State's  
8 Attorney may petition the court to obtain the results of any  
9 HIV test administered under this Section, and the court  
10 shall grant the disclosure if the State's Attorney shows it  
11 is relevant in order to prosecute a charge of criminal  
12 transmission of HIV under Section 12-16.2 of the Criminal  
13 Code of 1961 against the defendant. The court shall order  
14 that the cost of any such test shall be paid by the county  
15 and may be taxed as costs against the convicted defendant.

16 (i) All fines and penalties imposed under this Section  
17 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
18 Vehicle Code, or a similar provision of a local ordinance,  
19 and any violation of the Child Passenger Protection Act, or a  
20 similar provision of a local ordinance, shall be collected  
21 and disbursed by the circuit clerk as provided under Section  
22 27.5 of the Clerks of Courts Act.

23 (j) In cases when prosecution for any violation of  
24 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
25 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
26 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
27 12-16 of the Criminal Code of 1961, any violation of the  
28 Illinois Controlled Substances Act, or any violation of the  
29 Cannabis Control Act results in conviction, a disposition of  
30 court supervision, or an order of probation granted under  
31 Section 10 of the Cannabis Control Act or Section 410 of the  
32 Illinois Controlled Substance Act of a defendant, the court  
33 shall determine whether the defendant is employed by a  
34 facility or center as defined under the Child Care Act of

1 1969, a public or private elementary or secondary school, or  
2 otherwise works with children under 18 years of age on a  
3 daily basis. When a defendant is so employed, the court  
4 shall order the Clerk of the Court to send a copy of the  
5 judgment of conviction or order of supervision or probation  
6 to the defendant's employer by certified mail. If the  
7 employer of the defendant is a school, the Clerk of the Court  
8 shall direct the mailing of a copy of the judgment of  
9 conviction or order of supervision or probation to the  
10 appropriate regional superintendent of schools. The regional  
11 superintendent of schools shall notify the State Board of  
12 Education of any notification under this subsection.

13 (j-5) A defendant at least 17 years of age who is  
14 convicted of a felony and who has not been previously  
15 convicted of a misdemeanor or felony and who is sentenced to  
16 a term of imprisonment in the Illinois Department of  
17 Corrections shall as a condition of his or her sentence be  
18 required by the court to attend educational courses designed  
19 to prepare the defendant for a high school diploma and to  
20 work toward a high school diploma or to work toward passing  
21 the high school level Test of General Educational Development  
22 (GED) or to work toward completing a vocational training  
23 program offered by the Department of Corrections. If a  
24 defendant fails to complete the educational training required  
25 by his or her sentence during the term of incarceration, the  
26 Prisoner Review Board shall, as a condition of mandatory  
27 supervised release, require the defendant, at his or her own  
28 expense, to pursue a course of study toward a high school  
29 diploma or passage of the GED test. The Prisoner Review  
30 Board shall revoke the mandatory supervised release of a  
31 defendant who wilfully fails to comply with this subsection  
32 (j-5) upon his or her release from confinement in a penal  
33 institution while serving a mandatory supervised release  
34 term; however, the inability of the defendant after making a

1 good faith effort to obtain financial aid or pay for the  
2 educational training shall not be deemed a wilful failure to  
3 comply. The Prisoner Review Board shall recommit the  
4 defendant whose mandatory supervised release term has been  
5 revoked under this subsection (j-5) as provided in Section  
6 3-3-9. This subsection (j-5) does not apply to a defendant  
7 who has a high school diploma or has successfully passed the  
8 GED test. This subsection (j-5) does not apply to a defendant  
9 who is determined by the court to be developmentally disabled  
10 or otherwise mentally incapable of completing the educational  
11 or vocational program.

12 (k) A court may not impose a sentence or disposition for  
13 a felony or misdemeanor that requires the defendant to be  
14 implanted or injected with or to use any form of birth  
15 control.

16 (l) (A) Except as provided in paragraph (C) of  
17 subsection (l), whenever a defendant, who is an alien as  
18 defined by the Immigration and Nationality Act, is  
19 convicted of any felony or misdemeanor offense, the court  
20 after sentencing the defendant may, upon motion of the  
21 State's Attorney, hold sentence in abeyance and remand  
22 the defendant to the custody of the Attorney General of  
23 the United States or his or her designated agent to be  
24 deported when:

25 (1) a final order of deportation has been  
26 issued against the defendant pursuant to proceedings  
27 under the Immigration and Nationality Act, and

28 (2) the deportation of the defendant would not  
29 deprecate the seriousness of the defendant's conduct  
30 and would not be inconsistent with the ends of  
31 justice.

32 Otherwise, the defendant shall be sentenced as  
33 provided in this Chapter V.

34 (B) If the defendant has already been sentenced for

1 a felony or misdemeanor offense, or has been placed on  
2 probation under Section 10 of the Cannabis Control Act or  
3 Section 410 of the Illinois Controlled Substances Act,  
4 the court may, upon motion of the State's Attorney to  
5 suspend the sentence imposed, commit the defendant to the  
6 custody of the Attorney General of the United States or  
7 his or her designated agent when:

8 (1) a final order of deportation has been  
9 issued against the defendant pursuant to proceedings  
10 under the Immigration and Nationality Act, and

11 (2) the deportation of the defendant would not  
12 deprecate the seriousness of the defendant's conduct  
13 and would not be inconsistent with the ends of  
14 justice.

15 (C) This subsection (1) does not apply to offenders  
16 who are subject to the provisions of paragraph (2) of  
17 subsection (a) of Section 3-6-3.

18 (D) Upon motion of the State's Attorney, if a  
19 defendant sentenced under this Section returns to the  
20 jurisdiction of the United States, the defendant shall be  
21 recommitted to the custody of the county from which he or  
22 she was sentenced. Thereafter, the defendant shall be  
23 brought before the sentencing court, which may impose any  
24 sentence that was available under Section 5-5-3 at the  
25 time of initial sentencing. In addition, the defendant  
26 shall not be eligible for additional good conduct credit  
27 for meritorious service as provided under Section 3-6-6.

28 (m) A person convicted of criminal defacement of  
29 property under Section 21-1.3 of the Criminal Code of 1961,  
30 in which the property damage exceeds \$300 and the property  
31 damaged is a school building, shall be ordered to perform  
32 community service that may include cleanup, removal, or  
33 painting over the defacement.

34 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;

1 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
2 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
3 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
4 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
5 7-19-02; revised 2-17-03.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law."